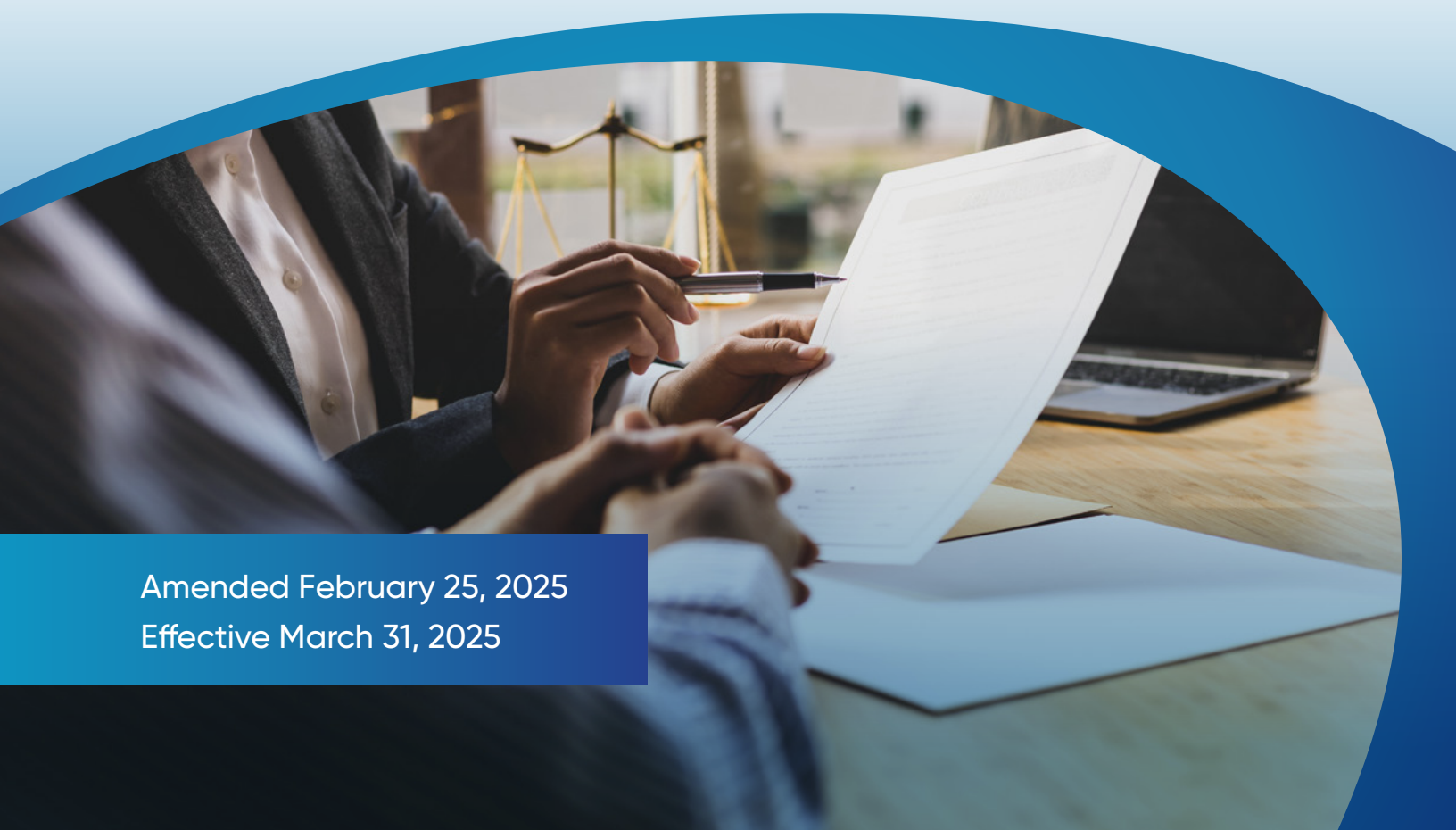


Discipline Committee Rules of Procedure



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RULE 1: INTERPRETATION

1.01 Definitions

1.01(1) In these Rules, unless the context requires otherwise,

“chair” means the chair or vice chair of the full Discipline Committee or their designate;

“Code” means the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*;

“College” means the Royal College of Dental Surgeons of Ontario;

“counsel” means a person legally authorized to represent a party or other participant at a discipline hearing;

“deliver” means to serve a document on every other party or in the case of a motion, motion participant, and to file it with the Hearings Office with proof of service, and “delivery” and “delivering” have corresponding meanings;

“direction” is a type of order that is procedural in nature and is often made informally by the chair of the Discipline Committee under Rule 6.01;

“Discipline Committee” means the Discipline Committee of the College, and includes a panel of the Discipline Committee;

“document” includes handwritten files, printed files, electronic media, sound recordings, video tapes, photographs, radiographs, charts, graphs, plans, maps, surveys, book of accounts and information recorded or stored by means of any device;

“electronic”, with respect to a proceeding, means a proceeding held by video conference, or some other form of electronic technology, which allows persons to speak to and hear one another, and where it is a videoconference, see one another. “Electronically” has a corresponding meaning;

“Hearings Office” means the employee or employees of the College who are specifically assigned the duty of providing administrative assistance to the Discipline Committee;

“holiday” means:

- (a) any Saturday or Sunday,
- (b) New Year’s Day,
- (c) Family Day,
- (d) Good Friday,
- (e) Easter Monday;
- (f) Victoria Day,
- (g) Canada Day,
- (h) Civic Holiday,
- (i) Labour Day,
- (j) Thanksgiving Day,
- (k) Christmas Day,
- (l) Boxing Day,

- (m) any special holiday proclaimed by the Governor General or the Lieutenant Governor, and
- (n) any other day designated by the College as a holiday, and
- (o) where New Year's Day, Canada Day, Christmas Day or Boxing Day falls on a Saturday or Sunday, the day designated by the College as that holiday;

"member" means a member of the College who is the subject of a proceeding before the Discipline Committee, which includes former members;

"motion" is a request made to the Discipline Committee to make an order in a particular proceeding;

"motion participant" means a party and any other person who would be affected by the order sought;

"order" means any decision made by the Discipline Committee, the chair or a pre-hearing presider and includes a procedural direction given by the Discipline Committee, the chair or a pre-hearing presider;

"party" means a party or parties under section 41 of the *Code*;

"pre-hearing presider" means the person designated by the chair to preside over the pre-hearing conference;

"proceeding" means any step in the hearing process and includes a motion, a pre-hearing conference, and the hearing itself;

"vulnerable witness" means a witness who, in the opinion of the Discipline Committee, will have difficulty testifying, or will have difficulty testifying in the presence of a party, for appropriate reasons related to age, disability, illness, trauma, emotional state or similar cause of vulnerability.

1.02 Interpretation

- 1.02(1) These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding before the Discipline Committee.
- 1.02(2) Where matters are not provided for in these Rules they shall be determined by analogy to them, and in a manner consistent with them and consistent with the *Regulated Health Professions Act, 1991* and the *Statutory Powers Procedure Act*.
- 1.02(3) Where a party or participant in the proceeding is not represented by counsel, anything these Rules permit or require counsel to do shall be done by the unrepresented party.

1.03 Computation, Extension or Abridgment of Time

- 1.03(1) In the computation of time under these Rules or an order of the Discipline Committee, except where the contrary intention appears,
 - (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even where the words "at least" are used;

- (b) where a period of less than seven (7) days is prescribed, holidays shall not be counted;
- (c) where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday; and
- (d) service of a document made after 4:00 p.m. at any time on a holiday shall be deemed to have been made on the next day that is not a holiday.

1.03(2) The Discipline Committee may extend or abridge any time prescribed by these Rules or by an order on such terms or conditions as the Discipline Committee considers just, either before or after the expiration of the prescribed time.

RULE 2: APPLICATION OF RULES

2.01 Application of Rules

2.01(1) These Rules apply to all proceedings before the Discipline Committee of the College including, with all necessary modifications, to applications for reinstatement under sections 72 and 73 of the *Code*.

2.02 Initiation of Rules

2.02(1) The Discipline Committee may exercise any of its powers under the Rules at the request of a party, a motion participant, or on its own initiative.

2.03 Waiver of Rules

2.03(1) Any provision of these Rules may be waived on consent of the parties or upon an order of the Discipline Committee.

2.03(2) The Discipline Committee may refuse to grant a waiver from the provision of these Rules where a party or participant does not act on a timely basis.

2.03(3) The Discipline Committee may waive a provision of these Rules on its own initiative, after having given notice to the parties or motion participants and having provided an opportunity for submissions to be made.

2.03(4) A failure to comply with these rules is an irregularity and does not render a proceeding or a step, document or order in a proceeding a nullity.

2.03(5) The Discipline Committee may, from time to time, issue procedural directions or practice guidelines with respect to the application of the Rules generally, as may be appropriate.

RULE 3: DOCUMENTS

3.01 Delivery of Documents

- 3.01(1) Subject to clause 1.03(1)(d), delivery of documents is deemed to be effective when delivered:
- (a) by personal service on the date of service;
 - (b) by regular, registered, or certified mail on the fifth day after the day of mailing to the last known address of the person or the person's legal representative;
 - (c) by email on the same day as the transmission to the last known email address of the person or the person's legal representative, where the email is not returned as undeliverable to the sender and where the last known email address of the person is an email address that is:
 - (i) on file with the College, where the person is a member of the College; or
 - (ii) used by the person to send an email to the College and/or to a party, within the preceding six (6) months;
 - (d) by courier, including Priority Post, to the last known address of the person, on the second day after the document was given to the courier by the person sending the document; or
 - (e) as directed by the Discipline Committee.

3.02 Filing of Documents with the Discipline Committee

- 3.02(1) All documents to be filed in a proceeding shall be filed with the Hearings Office, consistent with the Discipline Committee's Practice Direction about Electronic Hearings.
- 3.02(2) Documents shall be filed together with written confirmation that copies of the document(s) have been served via email, as required, on the other party or motion participants, except where they are filed in the course of an appearance in the proceeding.
- 3.02(3) Documents shall be filed with the Hearings Office by sending the document(s) by email to the current email address of the Hearings Office at HearingsOffice@rcdso.org.
- 3.02(4) Documents emailed to the Hearings Office should be clearly named so that they can be easily identified by the Hearings Office and the parties during the hearing.
- 3.02(5) A document shall not be considered filed until it is actually received by the Hearings Office.
- 3.02(6) A person can confirm whether a document has been filed by telephoning or sending an email to the Hearings Office.

RULE 4: SUBMISSIONS TO THE CHAIR

4.01 Procedure for Making Submissions to the Chair

- 4.01(1) Where these rules or any practice direction provide that the Chair can direct or order anything, a party or, in the case of a motion, a motion participant, may make submissions in writing to the Chair regarding the requested or proposed direction or order.
- 4.01(2) A party or motion participant may make submissions to the Chair by addressing a letter to the Chair and delivering a copy of the letter to the Chair c/o the Hearings Office at HearingsOffice@rcdso.org. Any such submissions shall be copied to all other parties or motion participants.
- 4.01(3) The other parties or motion participants may respond to the submissions described in sub-rule (2) by addressing a letter to the Chair and delivering a copy of the letter to the Chair c/o the Hearings Office at HearingsOffice@rcdso.org within three (3) days of receiving the original submissions. Any such responding submissions shall be copied to all other parties or motion participants.
- 4.01(4) Where submissions have been delivered under sub-rule (2), the Chair shall not give a direction or make an order unless the time has passed for the other parties or motion participants to deliver responding submissions, or unless it is urgent that the Chair do so, or the parties agree otherwise.
- 4.01(5) Where the Chair has given a direction or made an order before receiving submissions under this rule, the Chair may reconsider the direction or order and may confirm, vary, suspend or cancel the direction or order.
- 4.01(6) Where appropriate the Chair may direct that a matter that has been the subject of written submissions under this rule be dealt with in another manner.

RULE 5: PRE-HEARING CONFERENCES

5.01 Requesting a Pre-Hearing Conference

- 5.01(1) The Chair, at their own direction or at the request of the parties, may cause a pre-hearing conference to take place as soon as practical after a Notice of Hearing has been served to consider some or any of the following:
- (a) the possibility of settlement of any or all of the issues in the proceeding;
 - (b) the identification and simplification of the issues;
 - (c) the possibility of obtaining admissions that may facilitate the Hearing;

- (d) facts or evidence that may be agreed upon;
- (e) issues relating to disclosure and the exchange and information;
- (f) the estimated duration of the hearing;
- (g) the possibility of setting dates for the Hearing;
- (h) abbreviating the time otherwise required for the Hearing;
- (i) the format of the hearing, estimated duration of the hearing on the merits, and the time to be allotted to each party, either globally for the entire hearing, or for any component of the hearing, including opening statements; examinations in chief, cross-examinations and re-examinations of witnesses; closing submissions and, argument on objections or motions; and/or
- (j) any other matter that may assist in the just and most expeditious disposition of the proceeding.

5.01(2) A pre-hearing conference may be held at any time after the Notice of Hearing has been served and prior to the commencement of the Hearing.

5.01(3) The party requesting the pre-hearing conference shall seek the consent of the other party, and if such consent is obtained, shall contact the Hearings Office to request that a pre-hearing conference be scheduled.

5.02 Scheduling

5.02(1) The pre-hearing conference shall be scheduled by the Hearings Office. Where there is difficulty in scheduling the pre-hearing conference, the chair, vice-chair or their delegate may issue a direction scheduling it.

5.03 Attendance

5.03(1) Counsel and their clients are expected to attend the pre-hearing conference. A pre-hearing conference shall not take place without the attendance of the Member who is the subject of the hearing, and the College.

5.03(2) Pre-hearing conferences shall take place by way of videoconference unless the chair directs otherwise, in accordance with the Discipline Committee Practice Direction on Electronic Hearings.

5.04 Without Prejudice

5.04(1) The pre-hearing conference shall not be open to the public and, except for any orders, directions, agreements and undertakings made at a pre-hearing conference, it shall proceed on a without prejudice, confidential basis unless the parties consent otherwise.

5.05 Pre-Hearing Conference President

- 5.05(1) The chair shall designate a person to be the president at a pre-hearing conference. The pre-hearing president shall be one of the following:
- (a) a member of the Council;
 - (b) a former member of Council who previously served on the Discipline Committee and is a member of the College;
 - (c) a retired judge; or
 - (d)** a lawyer familiar with administrative law, the *Regulated Health Professions Act* and the *Code*.
- 5.05(2) A member of the Discipline Committee who presides at a pre-hearing conference may make such procedural orders as he or she considers necessary or advisable, keeping in mind the submissions of the parties and the legislation.
- 5.05(3) A non-member of the Discipline Committee who presides at a pre-hearing conference may make such orders upon consent only.
- 5.05(4) A member of the Discipline Committee who presides or sits in at a pre-hearing conference shall not preside at the Hearing, or in any way participate.
- 5.05(5) Subject to these rules only, a member or non-member of the Discipline Committee who presides or sits in at a pre-hearing conference may not discuss any of the issues or any other matters or make any communication with any person or committee, other than their report.

5.06 Notice of Pre-Hearing Conference

- 5.06(1) As soon as a pre-hearing conference has been scheduled and a pre-hearing president has been designated by the Chair, the Chair shall have issued a Notice of Pre-Hearing Conference which shall be given to all parties. The Notice of Pre-Hearing Conference is attached in the form hereto as Form "1A".

5.07 Pre-Hearing Conference Memorandum

- 5.07(1) The parties shall complete a Pre-Hearing Conference Memorandum in accordance with the form attached hereto as Form "1B", entitled, "Pre-Hearing Conference Memorandum". The College shall deliver its Pre-Hearing Conference Memorandum ten (10) days before the date of the conference and the Member shall deliver their Memorandum five (5) days before the date of the conference.
- 5.07(2) The College shall prepare all documents it deems necessary to assist in achieving the purposes of the pre-hearing conference.

5.07(3) The purpose of delivery of the Pre-Hearing Memorandum and the supporting documentation in advance of the pre-hearing conference is to provide the other party and the pre-hearing presider an opportunity prior to the date of the pre-hearing conference to review the materials.

5.08 Report of the Pre-Hearing Presider

5.08(1) The pre-hearing presider shall prepare a report after the pre-hearing conference in accordance with Form "1C" listing every agreement reached and every order made. This report shall be given to the parties and may be used at the Discipline Hearing by either party.

5.08(2) Any agreement by the parties on any issue, save and except for procedural matters, is subject to approval by the Discipline Committee.

5.08(3) If a party or their representative does not appear at the pre-hearing conference, the Discipline Committee may make an order as to costs with respect to the pre-hearing conference. The pre-hearing presider shall have no authority, under any circumstances, to order costs, but shall prepare a report for the Discipline Committee to the effect that a party or their representative has not appeared at the designated time.

5.09 Additional Pre-Hearing Conferences

5.09(1) At any time, the parties may request an additional pre-hearing conference for any of the purposes set out in 4.01(1).

RULE 6: MOTIONS

6.01 Initiating motions

6.01(1) A party or a person having an interest in the proceedings may initiate a motion by delivering a motion record, which shall include the notice of motion, in accordance with Form 2A, all affidavits and any materials to be relied upon, unless the nature of the motion or the circumstance make the motion record impractical.

6.01(2) All procedural or interlocutory (i.e. outside the actual hearing) issues shall be raised in a motion as soon as possible and shall be addressed at least fourteen (14) days before the day upon which the hearing is scheduled to commence, unless the nature of the motion requires that it be heard during the hearing itself.

6.02 Manner of hearing motions

- 6.02(1) A motion in a proceeding that is addressed outside of the actual hearing shall proceed in writing, without the attendance of the parties, unless the Chair directs otherwise.
- 6.02(2) A motion in a proceeding that is addressed during the hearing itself, may be heard by way of oral argument or in writing, as the panel directs.

6.03 Delivery (including filing) of motion materials

- 6.03(1) The person initiating a motion shall deliver the Notice of Motion and materials to support the motion, and any written argument in the form of a Motion Record by the Monday that is at least seven (7) days before the Motion is to be heard.
- 6.03(2) The Motion Record shall contain all materials to be relied upon.
- 6.03(3) All documents delivered on a motion shall have consecutively numbered pages and a table of contents describing each document including, for a motion record, each exhibit, by its nature and date and, in the case of an exhibit, by exhibit number or letter. The first document in each Motion Record shall be the Notice of Motion. The last document in each Motion Record shall be the Order sought.
- 6.03(4) Any other motion participant who wishes to respond, shall deliver responding materials in the form of a Responding Motion Record at least three (3) days before the motion is scheduled to be heard.

6.04 Assigning a motion panel and scheduling motion dates

- 6.04(1) The chair, in accordance with subsection 4.2 of the *Statutory Powers Procedure Act*, shall assign one or more members of the Discipline Committee to hear each motion.
- 6.04(2) A motion participant who believes that the hearing should not be heard by members of the Discipline Committee who sat on the motion panel shall request a direction from the motion panel on the matter in the notice of motion or by a notice of cross-motion.
- 6.04(3) Where the Chair has directed that a motion addressed outside of the hearing be addressed by way of oral hearing, the Hearings Office shall contact the participants to schedule a date for the motion after the person initiating the motion has delivered their Motion Record. Where there is difficulty in scheduling the motion, the Chair may issue a direction to schedule it.

6.05 Evidence on motions

- 6.05(1) Evidence on a motion shall be given by affidavit unless the Discipline Committee orders that it be given in some other form or unless otherwise provided by law.

6.05(2) All affidavits used on a motion shall:

- (a) be confined to the statement of facts within the personal knowledge of a witness, except that the affidavit may contain statements of the witness' information and belief, if the source of the information and the fact of the belief are specified in the affidavit; and
- (b) be signed by the witness and affirmed before a person authorized to administer affirmations, which person shall also mark all exhibits as such to the affidavit.

6.05(3) A motion participant shall not cross-examine the witness who provided an affidavit filed by another motion participant unless the motion participant consents, or the Discipline Committee directs otherwise.

6.05(4) The Discipline Committee shall not direct that the witness who provided an affidavit be cross-examined unless the interests of the case require otherwise.

6.05(5) Subrules 5.05(3) and 5.05(4) do not prevent a witness who provided an affidavit from being cross-examined on an affidavit during the hearing itself.

6.06 Draft Orders

6.06(1) Immediately after a motion has been determined, the person initiating the motion shall, and any other motion participant, may:

- (a) prepare a draft order, in accordance with Form 2B; and
- (b) seek written approval from the other motion participants as to its form and content; and
- (c) deliver the draft order together with any written approval(s) to the Hearings Office.

6.06(2) A draft order delivered in accordance with subrule 5.06(1) shall be treated as a submission and may be reviewed, amended if necessary, and signed by a person hearing the motion.

6.06(3) This Rule does not apply to orders made on the record during the hearing.

6.07 Time limits on oral submissions

6.07(1) If a motion proceeds orally, rather than in writing, no motion participant shall take more than one (1) hour, including a reply, to make oral submissions on a motion without the prior permission of the Discipline Committee.

6.08 Communications with the Discipline Committee

6.08(1) Any communications to the Discipline Committee regarding a motion shall be in writing and copied to the other motion participant(s) and to the Hearings Office.

RULE 7: DISCLOSURE

7.01 Delivery of documents

- 7.01(1) The College shall, as soon as possible after service of the Notice of Hearing upon the Member, disclose to the Member all the documents that the College has in its possession in relation to the case, including all of the documents previously disclosed and reviewed by the Inquiries, Complaints and Reports Committee and any subsequent non-privileged documents produced or gathered in preparation for the hearing. The obligation to make continuing disclosure to the Member continues until the discipline hearing is completed.
- 7.01(2) Each party to a proceeding shall deliver to every other party (a) a list of, and (b) if not previously produced, copies of, all documents that the party intends to produce or enter as evidence at the hearing, as soon as is reasonably practicable after the Notice of Hearing is served, and in any case, at least 20 days before the commencement of the hearing on the merits.
- 7.01(3) A party who does not disclose a document in compliance with sub-rule 7.01(2) may not refer to the document or thing or introduce it in evidence at the hearing without leave of the panel, which may be on any conditions that the panel considers just.

7.02 Documents protected from disclosure

- 7.02(1) Despite anything in these Rules, a party or participant in the proceedings is not required to disclose or produce any document that is privileged or otherwise protected from disclosure.

7.03 Fact Witness Disclosure

- 7.03(1) A party to a proceeding shall serve every other party a list of the witnesses the party intends to call to testify on the party's behalf at the hearing, at least 10 days before the commencement of the hearing.
- 7.03(2) If material matters to which a witness is to testify have not otherwise been disclosed, a party to a proceeding shall provide to every other party a summary of the evidence that the witness is expected to give at the hearing, at least 10-days before the commencement of the hearing.
- 7.03(3) A witness summary shall contain:
- (a) the substance of the evidence of the witness; and
 - (b) reference to any documents to which the witness will refer.
- 7.03(4) A party who does not include a witness in the witness list or provide a summary of the evidence a witness is expected to give in accordance with these rules may not call that person as a witness except without leave of the panel, which may be on any conditions as the panel considers just.

7.03(5) A witness may not testify to material matters that were not previously disclosed without leave of the panel, which may be on any conditions that the panel considers just.

7.04 Expert Opinion Disclosure

7.04(1) In addition to the requirements set out in sections 42 and 42.1 of the *Code*, a party who intends to call an expert to give expert opinion evidence at a hearing shall ensure that the expert prepare a report with the following information:

1. The expert's name, address and area of expertise.
2. The expert's qualifications and educational and practice experiences in their area of expertise.
3. The instructions provided to the expert in relation to the proceeding.
4. The nature of the opinion being sought and each issue in the proceeding to which the opinion relates.
5. The expert's opinion respecting each issue and, the expert's reasons for their opinion, including:
 - i. a description of the factual assumptions on which the opinion is based,
 - ii. a description of any research conducted by the expert that led the expert to form the opinion, and
 - iii. a list of every document, if any, reviewed by the expert in forming the opinion.

7.04(2) Where the Discipline Committee hears testimony from an expert witness, it may admit as an exhibit at the hearing the report of the expert witness.

7.04(3) The College shall deliver to the Member any expert report it has in its possession at the time of making disclosure and shall deliver any other expert report it obtains within fifteen (15) days of receiving it, but in any event, at least sixty (60) days before the commencement of the hearing.

7.04(4) The Member shall deliver any expert report it intends to rely on at least thirty (30) days before the commencement of the pre-hearing conference.

7.04(5) The Discipline Committee may extend or abridge the time provided for delivery of an expert report before or after the expiration of the time, and may make directions it considers just, to ensure that a party is not prejudiced by any extension or abridgment of time ordered.

7.04(6) An expert witness may not testify with respect to an issue, except with leave of the Discipline Committee, unless the substance of the opinion with respect to that issue is set out in the report of the expert, served under this Rule.

7.04(7) A party who fails to comply with sub-rule 7.04(1) may not call the expert as a witness or file the expert's report without leave of the panel, which may be on any conditions that the panel considers just.

7.04(8) The requirement to prepare and deliver an expert report shall not be required of a treating regulated health care practitioner who is called as a witness at a hearing to testify exclusively about treatment provided, so long as the treating practitioner's legible notes and anticipated evidence is disclosed in accordance with Rule 7.

7.05 Disclosure Orders

- 7.05(1) At any stage in a proceeding, a panel may order that a party:
- (a) provide to another party and to the panel any particulars that the panel considers necessary for a full and satisfactory understanding of the subject of the proceeding; and/or
 - (b) make any other disclosure required by these rules, within the time limits and on any conditions that the panel may specify.

RULE 8: PROCEDURES FOR THE HEARING

8.01 Early hearing

- 8.01(1) A party may bring a motion under Rule 6 for an order directing an expedited hearing.
- 8.01(2) The Discipline Committee may order that a hearing be expedited in appropriate cases.
- 8.01(3) Where an interim order made pursuant to section 25.4 of the *Code* is in place, the Discipline Committee shall expedite the proceedings, including scheduling the hearing early unless counsel for the Member waives the duty in writing.

8.02 Notice of Constitutional Questions

- 8.02(1) Where a party intends to:
- (a) question the constitutional validity or applicability of legislation, a regulation or by-law made under legislation, or a rule of common law; or
 - (b) seek a remedy under section 24(1) of the Canadian Charter of Rights and Freedoms,
- the party shall deliver to the Attorney General of Canada and Ontario, the other party and the Discipline Committee, notice of a constitutional question in the form required under section 109 of the Courts of Justice Act as soon as the circumstances requiring notice become known and, in any event, at least fifteen (15) days before the question is to be argued.
- 8.02(2) An Attorneys General or a party responding to a notice of constitutional question shall deliver any responding materials at least five (5) days before the question is to be argued.

8.02(3) Where the Attorneys General of Canada and Ontario are entitled to notice, they are entitled to:

- (a) adduce evidence and make submissions to the Discipline Committee regarding the constitutional question; and
- (b) notice of any appeal in respect of the constitutional question.

8.03 Summoning Witnesses

8.03(1) A party who requires the attendance of a witness at a hearing shall submit to the Hearings Office a Summons to Witness, in accordance with the form provided on the Government of Ontario online Central Forms Repository¹, for signature by the Chair.

8.03(2) A summons to Witness shall be served personally on the person to whom it is directed along with the attendance money required by law² at least forty-eight (48) hours before the time fixed for the attendance.

8.04 Vulnerable Witnesses

8.04(1) The Discipline Committee may order that a support person be permitted to be present and sit near a vulnerable witness while testifying and may issue other directions regarding the conduct of the support person during the testimony of the witness.

8.04(2) The Discipline Committee may order that a vulnerable witness testify in a manner that would allow the vulnerable witness not to see the Member if the Discipline Committee is of the opinion that the exclusion is necessary to obtain a full and candid account of the matter.

8.04(3) The Discipline Committee shall not make an order under subrule 8.04(2) unless arrangements are made for the Member, the Discipline Committee, and counsel for the parties to watch the testimony of the vulnerable witness and the member is permitted to communicate with counsel while watching the testimony.

8.04(4) The Discipline Committee may order that a Member not personally conduct the cross-examination of a vulnerable witness if the Discipline Committee is of the opinion that the order is necessary to obtain a full and candid account of the vulnerable witness' testimony or to prevent an abuse of the process.

8.04(5) Where the Discipline Committee makes an order under subrule 8.04(4), it may appoint counsel for the purpose of conducting the cross-examination.

¹ At the time that the Rules were last updated, the form under the *Statutory Powers Procedures Act* could be found at: <https://forms.mgcs.gov.on.ca/en/>

² At the time that the Rules were last updated, the amount of attendance money required to be paid was set out in section 21 of Tariff A of the Rules of Civil Procedure found at: <https://www.ontario.ca/laws/regulation/900194>.

8.04(6) The Discipline Committee may make other orders protecting vulnerable witnesses, such as an order prohibiting the publication of their identities where required by law³ or where it concludes it is just and fair to do so.

8.05 Oral and Written Argument

8.05(1) The Discipline Committee may place reasonable limits on the length of oral submissions.

8.05(2) The Discipline Committee may, after hearing submissions, order the parties to submit written arguments on some or all the issues at the hearing and may give directions as to the form and timing of such written arguments.

8.06 Filing Draft Order

8.06(1) Where a party seeks an order from the Discipline Committee before or at a hearing, that party shall file, at the time of its submissions, a draft order in the form that the party is requesting the Discipline Committee to adopt and sign.

8.06(2) Where an order is sought on consent, the written approval of the other party to the draft order shall be filed with the draft order.

8.07 Public Access

8.07(1) A hearing shall be open to the public in accordance with section 45 of the *Code*.

8.07(2) Information about a hearing shall be published on the College's website in accordance with section 23 of the *Code*.

8.07(3) Transcripts of hearings are available to the public in accordance with section 48 of the *Code*.

8.07(4) If a member of the public wishes to have access to a copy of any part of the record of the Discipline Committee, they shall bring a motion before the Discipline Committee upon notice to the parties, and such motion shall be made, considered and decided in writing by the Chair or by a panel of the Discipline Committee appointed by the Chair, without an oral hearing.

8.07(5) It is unnecessary to bring a motion before the Discipline Committee where a member of the public seeks access to a Notice of Hearing, an Agreed Statement of Fact or Joint Submission as to Penalty and Costs, unless an order has been made under subsection 45(2) of the *Code*, closing the hearing, or subsection 45(3) of the *Code*, preventing public disclosure of matters disclosed at the hearing that are contained in a Notice of Hearing, Agreed Statement of Fact or a Joint Submission as to Penalty and Costs.

³ For example, section 47 of the *Code* requires the hearing panel to make an order prohibiting the identification of a witness whose testimony is in relation to a member's misconduct of a sexual nature.

8.07(6) Documents released by the Discipline Committee to the public shall, unless directed otherwise, not contain the names of patients or any information that could identify a patient.

RULE 9: COSTS

9.01 Procedure for requesting costs

9.01(1) A party requesting an order for costs other than on consent shall, where practicable, deliver a detailed written explanation of the basis upon which the costs and expenses requested are calculated.

9.01(2) Where the request for costs includes disbursements or out-of-pocket expenses, these may be proved by an affidavit attaching a copy of any invoice or receipt.

9.01(3) The Discipline Committee may direct that the issue of costs, including how costs are calculated, be dealt with through written submissions or at a motion conducted separately from the hearing under Rule 5 with any necessary modifications.

9.02 Costs for non-compliance with Rules or unreasonable conduct

9.02(1) Where the Discipline Committee is entitled to order the payment of costs by a party, the Discipline Committee may consider the failure of that party to comply with these Rules.

9.02(2) Where the Discipline Committee concludes that the conduct or course of conduct of a party was unreasonable, frivolous or vexatious or the party acted in bad faith, it may order the party to pay another party's costs.

RULE 10: DECISIONS AND REASONS

10.01 Delivery methods

10.01(1) The Discipline Committee may send each party a copy of its final decision or order, including any reasons, by:

- (a) courier;
- (b) personal service; or
- (c) secure email.

10.02 Correction of errors

- 10.02(1) A party may, within thirty (30) days after receiving a copy of the Discipline Committee's decision, order or written reasons, request that the Discipline Committee correct any typographical, formatting, calculation, or similar errors by delivering such request, in writing.
- 10.02(2) The Discipline Committee may, on its own initiative and at any time, correct any typographical, formatting, calculation, or similar errors made in its own decision, order or written reasons.
- 10.02(3) Where the Discipline Committee makes a correction on its own initiative, it shall advise the parties.

RULE 11: REINSTATEMENT APPLICATIONS

11.01 Initiating a reinstatement application

- 11.01(1) A person making an application for reinstatement under sections 72 and 73 of the *Code* shall serve on the Registrar of the College the following:
- (a) Notice of the application in the form prescribed by the Registrar, along with the applicable application fee as prescribed in the College's by-laws, specifying:
 - (b) the order sought;
 - (c) the grounds of the application;
 - (d) a declaration of good conduct in a form acceptable to the Registrar;
 - (e) a statement, in a form acceptable to the Registrar, of every activity the person has taken during the previous three (3) years to maintain current knowledge, skills and judgment in practising the profession;
 - (f) the estimated anticipated length of the hearing;
 - i. the record of the original hearing and the record of any previous applications for reinstatement;
 - ii. the transcript of the original hearing and any previous applications for reinstatement; and
 - iii. any document and a summary of any oral evidence that the person will introduce.

11.02 Scheduling a reinstatement hearing

- 11.02(1) The Discipline Committee shall not schedule a reinstatement application for a hearing until the person making the application has complied with subrule 11.01.
- 11.02(2) When a reinstatement application has been scheduled for a hearing, the Hearings Office shall deliver a notice of hearing to the parties.